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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE FACEBOOK BIOMETRIC
INFORMATION PRIVACY LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

FREDERICK WILLIAM GULLEN, on behalf
of himself and all others similarly situated,

Plaintiff,

v.

FACEBOOK, INC.,

Defendant.

Master Docket No.: 3:15-CV-03747-JD

**DEFENDANT FACEBOOK, INC.'S
ADMINISTRATIVE MOTION FOR AN
EXTENSION OF TIME TO RESPOND
TO PLAINTIFFS' MOTIONS FOR
CLASS CERTIFICATION**

Hon. James Donato

*[Declaration and Proposed Order filed
concurrently herewith]*

Case No. 3:16-cv-00937-JD

Pursuant to Civil Local Rule 7-11, defendant Facebook, Inc. respectfully submits this administrative motion for a two-week extension of time to respond to plaintiffs' motions for class certification. *See Facebook Biometric* Dkt. 255; *Gullen* Dkt. 108. Facebook concurrently submits the Declaration of John Nadolenco in Support of Facebook's Administrative Motion and a proposed order granting this motion.

Under the Amended Case Management Scheduling Order entered September 11, 2017 (Dkt. 223), the deadline for Facebook to file its opposition brief to plaintiffs' certification motions is January 12, 2018, and the deadline for plaintiffs to file any reply is January 26, 2018. Facebook seeks a two-week extension of the deadline to file its opposition brief until January 26, 2018, and a corresponding two-week extension of the deadline for plaintiffs to file any reply until February 9, 2018. Good cause to extend these deadlines exists for the following reasons:

1. The *In re Facebook* plaintiffs' class certification motions propose new class definitions that differ in material respects from the class definitions proposed in their operative complaints. *Compare, e.g.,* Consol. Class Action Compl. (Dkt. 40) ¶ 53, *with* Consol. Pls.' Certification Mot. at 5 (Dkt. 225). The new proposed class definitions raise distinct legal and factual issues that will require additional time to adequately research, develop, and brief. In addition, plaintiffs' new class definition will require additional consultation between Facebook's counsel and employees of the company (including Facebook's software engineers)—inquiries that would have been unnecessary under plaintiffs' original class definitions and will be challenging to conduct over the holidays. For example, the class definition proposed in plaintiffs' motions to certify (unlike the one proposed in their complaint) depends on whether a person's face appeared in a photo uploaded to Facebook from Illinois (Consol. Pls.' Certification Mot. at 5), and plaintiffs contend that "class members . . . can be identified in large part using data maintained by Facebook." *Id.* at 18.

2. Under the Amended Case Management Scheduling Order, the parties' affirmative expert disclosures are due next Friday, December 22, 2017. The completion of Facebook's

1 affirmative expert disclosures will require a substantial portion of Facebook's counsel's time and
2 attention through December 22, 2017.

3 3. At the time that the Court entered the Amended Case Management Scheduling
4 Order, Facebook's counsel, Lauren Goldman, had already booked and paid for a vacation out of
5 the country from December 23 through December 31, 2017. Nadolenco Decl. ¶ 3. Facebook's
6 counsel, John Nadolenco, is similarly on family vacation from December 22 through January 3,
7 2018. *Id.* Further, defense counsel's primary client contact is on vacation the week of December
8 25, 2017. *Id.*

9 4. A hearing date for plaintiffs' motions for class certification has not yet been set,
10 and accordingly need not be reset in the event the Court grants Facebook's motion.

11 For the foregoing reasons, Facebook respectfully requests that the Court extend the
12 deadline for Facebook to file its responses to plaintiffs' motions for class certification until
13 January 26, 2018, and to extend the deadline for plaintiffs to file any reply by two weeks until
14 February 9, 2018.

15 Dated: December 13, 2017

MAYER BROWN LLP

17 By: /s/ John Nadolenco
John Nadolenco
Lauren R. Goldman

18 *Counsel for Defendant Facebook, Inc.*